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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,311	09/23/2003	Wayne J. Allen	42P16359	4675
8791 7590 01/05/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			EXAMINER LE, MIRANDA	
			ART UNIT 2167	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	
3 MONTHS			01/05/2007	
			DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/669,311

Applicant(s)

ALLEN, WAYNE J.

Examiner

Miranda Le

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/16/2006 has been entered.

2. This communication is responsive to Amendment, filed 10/16/2006.

Claims 1-11 are pending in this application. Claims 1, 9, 13, 21 are independent claims. In the Amendment, claims 1, 9, 13, 21 have been amended. This action is made non-Final.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "**The disclosure describes,**" etc.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless:

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4-10, 13, 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (US Pub. No. 20020159463).

Wang anticipated independent claims 1, 9, 13, 21 by the following:

As per claim 1, Wang teaches a method comprising:

querying a file (*i.e. the requests from any new system that looks up the server list for a particular service on this network, [0045]; definition of service will be defined in the description of message format, [0049]*) that defines a protocol for which protocol support is to be added to a network traffic generation (*i.e. the traffic flow between the client and the physical server, [0045]*) and analysis tool (*i.e. parse the packet, [0049]*) to process network traffic ([0045; 0049; 0058; 0059; 0061]);

determining from the queried file how packets for the protocol are constructed (*i.e. The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*); and

building a protocol runtime specification based on how packets for the protocol are constructed (*i.e. The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*), wherein the network traffic generation and analysis tool

is configured to process network traffic in accordance with the protocol runtime specification ([0045; 0049; 0058; 0059; 0061]).

As per claim 9, Wang teaches an apparatus comprising:

a storage element to store a file (*i.e. definition of service will be defined in the description of message format, [0049]*) that defines a protocol for which protocol support is to be added to a network traffic generation and analysis tool to process network traffic ([0045; 0049; 0058; 0059; 0061]); and

a translation unit (*i.e. Network Address Translation, [0045]; the address translation service, [0049]*) coupled to the storage element to query the file to determine how packets for the protocol are constructed and to build a protocol runtime specification for the protocol (*i.e. The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*), wherein the network traffic generation and analysis tool (*i.e. parse the packet, [0049]*) is configured to process network traffic in accordance with the protocol runtime specification ([0045; 0049; 0058; 0059; 0061]).

As per claim 13, Wang teaches an article of manufacture comprising a machine accessible medium (Fig. 1) including content that when accessed by a machine causes the machine to:

querying a file (*i.e. the requests from any new system that looks up the server list for a particular service on this network, [0045]; definition of service will be defined in the description of message format, [0049]*) that defines a protocol for which protocol support is to be added to a

network traffic generation (*i.e. the traffic flow between the client and the physical server, [0045]*) and analysis tool (*i.e. parse the packet, [0049]*) to process network traffic (*[0045; 0049; 0058; 0059; 0061]*);

determining from the queried file how packets for the protocol are constructed (*i.e. The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*); and

building a protocol runtime specification based on how packets for the protocol are constructed (*i.e. The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*), wherein the network traffic generation and analysis tool is configured to process network traffic in accordance with the protocol runtime specification (*[0045; 0049; 0058; 0059; 0061]*).

As per claim 21, Wang teaches a system comprising:

a storage element to store a file (*i.e. definition of service will be defined in the description of message format, [0049]*) that defines protocol support is to be added to a network traffic generation and analysis tool to process network traffic (*[0045; 0049; 0058; 0059; 0061]*);

a translation unit (*i.e. Network Address Translation, [0045]; the address translation service, [0049]*) coupled to the storage element to query the file to determine how packets for the protocol are constructed and to build a protocol runtime specification for the protocol (*i.e. The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*), wherein the network traffic generation and analysis tool (*i.e. parse the*

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packet, [0049]) is configured to process network traffic in accordance with the protocol runtime specification ([0045; 0049; 0058; 0059; 0061]);

a network interface coupled to the transaction unit (i.e. the systems of the present invention include intermediate system, end system, and supervisor system. The IS (intermediate system) is IP router or switch kind of device that receives traffic from outside, and forward it to the end system, [0045]); and

a network driver coupled to the network interface (i.e. the systems of the present invention include intermediate system, end system, and supervisor system. The IS (intermediate system) is IP router or switch kind of device that receives traffic from outside, and forward it to the end system, [0045]).

As per claim 4, Wang teaches the method of claim 1, wherein determining from the queried file how packets for the protocol are constructed comprises determining whether there are one or more protocol encapsulations (*i.e. HTTP server, FTP server, firewall proxy server, IPSEC tunneling server and NAT (Network Address Translation) server etc, [0045]; A server could also use this message to redirect the user request to other better server node based on the service configuration or other requirement, [0056]).*

As per claim 5, Wang teaches the method of claim 1, wherein determining from the queried file how packets for the protocol are constricted comprises determining a field type of one or more fields for the protocol (*i.e. For assigned numbers, within this layer two network, there are numerous parameters, such as IP addresses, under same IP address the TCP or UDP*

port number, certain fields in layer three to layer seven header or content and many others need to be controlled and managed, [0065]).

As per claim 6, Wang teaches the method of claim 1, wherein determining from the queried file how packets for the protocol are constructed comprises determining a field size of one or more fields for the protocol (*i.e. Service type matching rule is variable length that is defined in later section. Server address is 8 byte field, the first two bytes determine it's MAC address or IP address. 00 00 is MAC, 00 01 is IP, [0101]).*

As per claim 7, Wang teaches the method of claim 1, wherein determining from the queried file how packets for the protocol are constructed comprises determining a default value of one or more fields for the protocol (*i.e. Service type matching rule is variable length that is defined in later section. Server address is 8 byte field, the first two bytes determine it's MAC address or IP address. 00 00 is MAC, 00 01 is IP, [0101]).*

As per claim 8, Wang teaches the method of claim 1, wherein determining from the queried file how packets for the protocol are constructed comprises determining whether there is a calculation to be performed for one or more fields of the protocol (*i.e. Supervisor system may calculate the average response time based on each server's latest current response time within the interval that the supervisor system sent to its parent supervisor system, [0099]).*

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As per claim 10, Wang teaches the apparatus of claim 9, further comprising a network interface couple to the translation unit (*i.e. the systems of the present invention include intermediate system, end system, and supervisor system. The IS (intermediate system) is IP router or switch kind of device that receives traffic from outside, and forward it to the end system, [0045]*).

As per claim 16, Wang teaches the article of manufacture of claim 13, wherein the machine accessible medium including content that when accessed by the machine causes the machine to determine from the queried file how packets for the protocol are constructed comprises the machine accessible medium including content that when accessed by the machine causes the machine to determine whether there are one or more protocol encapsulations (*i.e. HTTP server, FTP server, firewall proxy server, IPSEC tunneling server and NAT (Network Address Translation) server etc, [0045]; A server could also use this message to redirect the user request to other better server node based on the service configuration or other requirement, [0056]; The specification of a flow is totally determined by the server, i.e. dependent server application requirement, [0058]*).

As per claim 17, Wang teaches the article of manufacture of claim 13, wherein the machine accessible medium including content that when accessed by the machine causes the machine to determine from the queried file how packets for the protocol are constructed comprises the machine accessible medium including content that when accessed by the machine causes the machine to determine a field type of one or more fields for the protocol (*i.e. For*

assigned numbers, within this layer two network, there are numerous parameters, such as IP addresses, under same IP address the TCP or UDP port number, certain fields in layer three to layer seven header or content and many others need to be controlled and managed, [0065]).

As per claim 18, Wang teaches the article of manufacture of claim 13, wherein the machine accessible medium including content that when accessed by the machine causes the machine to determine from the queried file how packets for the protocol are constructed comprises the machine accessible medium including content that when accessed by the machine causes the machine to determine a field size of one or more fields for the protocol (*i.e. Service type matching rule is variable length that is defined in later section. Server address is 8 byte field, the first two bytes determine it's MAC address or IP address. 00 00 is MAC, 00 01 is IP, [0101]).*

As per claim 19, Wang teaches the article of manufacture of claim 13, wherein the machine accessible medium including content that when accessed by the machine causes the machine to determine from the queried file how packets for the protocol are constructed comprises the machine accessible medium including content that when accessed by the machine causes the machine to determine a default value of one or more fields for the protocol (*i.e. Service type matching rule is variable length that is defined in later section. Server address is 8 byte field, the first two bytes determine it's MAC address or IP address. 00 00 is MAC, 00 01 is IP, [0101]).*

As per claim 20, Wang teaches the article of manufacture of claim 13, wherein the machine accessible medium including content that when accessed by the machine causes the machine to determine from the queried file how packets for the protocol are constructed comprises the machine accessible medium including content that when accessed by the machine causes the machine to determine whether there is a calculation to be performed for one or more fields of the protocol (*i.e. Supervisor system may calculate the average response time based on each server's latest current response time within the interval that the supervisor system sent to its parent supervisor system, [0099]*).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 3, 11, 12, 14, 15, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (US Pub. No. 20020159463), in view of Harvey et al. (US Patent No. 7,054,924).

As per claim 2, 11, 14, 22, Wang does not expressly teach the file is written in an Extensible Markup Language (XML).

Harvey teaches the file is written in an Extensible Markup Language (XML) (*See Table 2, col. 16*).

It would have been obvious to one of ordinary skill of the art having the teaching of Wang and Harvey at the time the invention was made to modify the system of Wang to include the file is written in an Extensible Markup Language (XML) as taught by Harvey. One of ordinary skill in the art would be motivated to make this combination in order to configuration and management of computer network devices in view of Harvey (*See FIELD OF INVENTION*), as doing so would give the added benefit of having automatic network provisioning accomplished, without requiring a skilled technician to visit customer premises to carry out configuration as taught by Harvey (*col. 2, lines 51-65*).

As per claim 3, 12, 15, 23, Wang does not specifically teach the method of claim 1, further comprising determining from the file how to display one or more user interface elements.

Harvey teaches determining from the file how to display one or more user interface elements (*Figs. 4-7*).

It would have been obvious to one of ordinary skill of the art having the teaching of Wang and Harvey at the time the invention was made to modify the system of Wang to include determining from the file how to display one or more user interface elements as taught by Harvey. One of ordinary skill in the art would be motivated to make this combination in order to display any part of the configuration file to the user in view of Harvey (*col. 24, lines 35-47*), as

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doing so would give the added benefit of having automatic network provisioning accomplished, without requiring a skilled technician to visit customer premises to carry out configuration as taught by Harvey (*col. 2, lines 51-65*).

Response to Arguments

8. Applicant's arguments regarding Carney does not disclose "a file that defines a protocol for which protocol support is to be added..." with respect to amended claims 1, 9, 13, 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

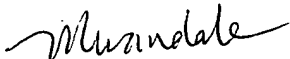
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Miranda Le whose telephone number is (571) 272-4112. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham, can be reached on (571) 272-7079. The fax number to this Art Unit is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Miranda Le
December 27, 2006